REMARKS/ARGUMENTS

Claims 1-19 are now pending. Claims 1-8, 11-14, and 17 were rejected as being unpatentable over U.S. Patent No. 6,272,337 to Mount et al. in view of WO 99/63764 to Malmivirta et al. Claims 9-10 and 15-16 were rejected as unpatentable over Mount and Malmivirta and further in view of U.S. Patent Application Publication 2003/0060224 to Nelson, Jr. et al.

Claim 1 has been amended to recite that the method comprises three steps, namely, (1) transmitting a predetermined data pattern from a test apparatus to the mobile telephone terminal on a downlink, (2) the terminal receiving the predetermined data pattern and responding by transmitting an access request on an uplink to the test apparatus, and (3) the test apparatus receiving the access request and analyzing the access request to assess the performance of the terminal based upon assessment of the access request alone. The method of Claim 1 thus is simple compared with the methods of the cited references, in that the test apparatus analyzes the access request alone to assess the performance of the terminal, and does not need to engage in an exchange of messages in response to the access request in order to analyze the performance of the terminal. The method of Claim 1 requires only that the terminal issue an access request, and the test apparatus analyze the access request. Further exchanges between the test apparatus and terminal are unnecessary.

Claims 11 and 17 have been amended similarly to Claim 1, and new Claims 18 and 19 have been added. Claim 18 emphasizes that the assessment does not require the terminal to do anything other than transmit the access request, and Claim 19 adds that the apparatus has no capability of continuing communication with the terminal in response to the access request other than through the signal with the predetermined data pattern on the downlink.

It is submitted that the cited references do not suggest the methods and apparatus of the amended and new claims. Mount describes a test control system 12 that sends commands to mobile units 14. The commands cause the mobile units to issue access requests to a mobile

communications system 26. The mobile communications system 26 responds to the access requests by connecting the mobile units 14 to the system 26 so that they can perform the test procedures. The test control system 12 controls the test procedures by the commands it issues to the mobile units 14 (see col. 4, lines 15-28). Therefore, each mobile unit 14 issues access requests in the normal way, but *it is not the access request itself that is used to assess the performance of the mobile unit.* Instead, additional signals or messages are transmitted after the mobile unit 14 has been granted access to the communications system 26, and it is these additional signals or messages that are analyzed to assess performance.

Thus, Mount does not disclose a method or apparatus in which a test apparatus receives an access request from a terminal and analyzes the access request to assess the performance of the terminal based upon assessment of the access request alone.

Malmivirta describes a test system for a mobile telecommunications system in which the mobile terminal loops back downlink data received from the test equipment onto the uplink of the mobile terminal so as to be received and analyzed by the test equipment. See page 6, line 17, to page 7, line 12, and Figure 3, which shows the loop-back arrows 332 and 333. Page 7, line 35, to page 8, line 7, describes how the mobile terminal responds with a channel request on the RACH (Random Access Channel) in the normal course of operation of the mobile terminal, and serves to set up the loop-back test mode. More specifically, after the channel request on the RACH, the test equipment sends an immediate assignment message, which may contain various instructions for the mobile terminal, including instructions for the terminal to enter a loop-back test mode as described above. Therefore, Malmivirta's test equipment does not analyze the access request as required according to Claim 1, but instead analyzes the loop-back data that passes in the subsequent communication set up in response to the access request.

The Office Action refers to page 11, lines 16-32, of Malmivirta, but this does not refer to the access request on the RACH channel, but rather to the control channels FACCH and SACCH, and the way in which these normally operate. This is not the subject matter of the claimed invention.

Thus, neither Mount nor Malmivirta discloses a method or apparatus in which a test apparatus receives an access request from a terminal and analyzes the access request to assess the performance of the terminal based upon assessment of the access request alone. In both these references, the access request serves to initiate a process wherein the test equipment issues additional commands to cause further signals/messages to be exchanged, and these further signals/messages are what are analyzed by the test equipment to assess the performance of the terminal.

Furthermore, Nelson does not supply the teachings that are lacking in Mount and Malmivirta. Nelson is concerned with measuring path losses in a mobile communications system and involves sending a test signal and an indication of the power level of the test signal so as to allow the *mobile terminal* (not the test apparatus) to determine power loss in the transmission path. Nelson does not suggest a test apparatus that analyzes an access request from a mobile terminal as claimed.

Accordingly, it is submitted that independent Claims 1, 11, and 17, all of which share the feature that the test apparatus analyzes the access request to assess the performance of the terminal based upon assessment of the access request alone, are patentable over the references.

Independent Claim 18 is similar to Claim 1, but recites that the test apparatus assesses the performance of the terminal based upon assessment of the access request and without prompting the terminal to do anything other than transmit the access request. As apparent from the above remarks, neither Mount, Malmivirta, nor Nelson discloses such a method. Therefore, Claim 18 is patentable over the references.

Independent Claim 19 is similar to Claim 17, but recites that the apparatus has no capability of continuing communication with the terminal in response to the access request other than through said signal (i.e., the initial signal having the predetermined data pattern) on the downlink. The above remarks make clear that in both Mount and Malmivirta, after the access request, the test equipment engages in further communications with the mobile terminal. Thus, Claim 19 is not suggested by the references and is patentable.
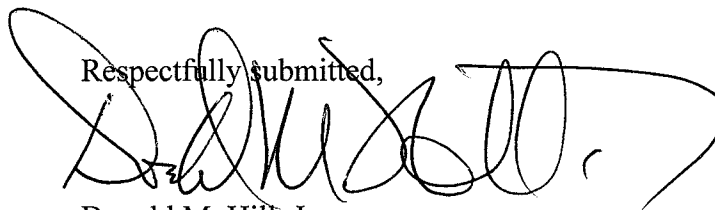
The claims dependent on the independent claims are patentable for at least the same reasons noted above. Furthermore, the additional features of the dependent claims, in combination with those of the independent claims, are not suggested by the references.

Based on the above amendments and remarks, it is submitted the application is in condition for allowance.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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